

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§551. Hazardous Air Pollutant (HAP) Control Technology Requirements for New Sources

A. Applicability. The provisions of this Section apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after June 29, 1998. The provisions of this Section do not apply to major sources specifically regulated or exempted from regulation under a standard issued in accordance with section 112(d), 112(h), or 112 (j) of the Clean Air Act and incorporated in 40 CFR part 63 or to major sources for which the owner or operator has received all necessary air quality permits for construction or reconstruction prior to June 29, 1998.

B. Definitions. The terms used in this Section have the meaning given to them in LAC 33:III.111 and 5103, the Clean Air Act, and 40 CFR part 63, subpart A except for those terms defined herein as follows:

Affected Source—the stationary source or group of stationary sources that, when fabricated ~~(on-site)~~, erected, or installed ~~(on-site)~~, meets the definition of “construct a major source” or the definition of “reconstruct a major source” contained in this Section.

Available Information—for the purposes of identifying control technology options for the affected source, information contained in the following information sources as of the date of approval of the MACT determination by the department:

- a. a relevant proposed regulation, including all supporting information;
- b. background information documents for a draft or proposed regulation;
- c. data and information available for the Control Technology Center developed in accordance with section 113 of the Clean Air Act;
- d. data and information contained in the Aerometric Information Retrieval System, including information in the MACT database;
- e. any additional information that can be expeditiously provided by the administrator; and
- f. for the purpose of determinations by the department, any additional information provided by the applicant or others and any additional information considered available by the department.

Construct a Major Source—

- a. to fabricate, erect, or install at any greenfield site a stationary source or

group of stationary sources that is located within a contiguous area and under common control and that emits, or has the potential to emit, 10 tons per year of any HAP or 25 tons per year of any combination of HAPs; or

b. to fabricate, erect, or install at any developed site a new process or production unit that in and of itself emits, or has the potential to emit, 10 tons per year of any HAP or 25 tons per year of any combination of HAPs, unless the process or production unit satisfies the following criteria:

i. all HAPs emitted by the process or production unit that would otherwise be controlled under the requirements of this Section are controlled by emission control equipment that was previously installed at the same site as the process or production unit;

ii. the department determines:

(a). within a period of five years prior to the fabrication, erection, or installation of the process or production unit, that the existing emission control equipment represents the best available control technology (BACT), lowest achievable emission rate (LAER) under 40 CFR part 51 or 52, toxics-best available control technology (T-BACT), or MACT based on state air toxics rules for the category of pollutants that includes those HAPs to be emitted by the process or production unit; or

(b). that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T-BACT, or state air toxic rule MACT determination);

iii. the department determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

iv. the department provides notice and an opportunity for public comment concerning its determination that criteria in Clauses i-iii of Subparagraph b of this definition apply and concerning the continued adequacy of any prior BACT, LAER, T-BACT, or state air toxic rule MACT determination;

v. if any commenter has asserted that a prior BACT, LAER, T-BACT, or state air toxic rule MACT determination is no longer adequate, the department shall determine that the level of control required by that prior determination remains adequate; and

vi. any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the department are applicable requirements under section 504(a) of the Clean Air Act either have been incorporated into any existing Title V permit for the affected facility or will be incorporated into such permit upon issuance.

Control Technology—measures, processes, methods, systems, or techniques to limit the emissions of HAPs through process changes, substitution of materials, or other modifications, which:

- a. reduce the quantity of, or eliminate emissions of, such pollutant through process changes, substitution of materials, or other modifications;
- b. enclose systems or processes to eliminate emissions;
- c. collect, capture, or treat such pollutants when released from a process, stack, storage, or fugitive emissions point;
- d. are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 U.S.C. 7412(h); or
- e. are the combination of Subparagraphs a-d of this definition.

Electric Utility Steam Generating Units—any fossil fuel-fired combustion unit, of more than 25 megawatts, that serves a generator that produces electricity and supplies more than one-third of its potential electrical output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale.

Greenfield Site—a contiguous area under common control that is an undeveloped site.

Hazardous Air Pollutants—any air pollutants listed in or pursuant to section 112(b) of the Clean Air Act.

Maximum Achievable Control Technology (MACT) Emission Limitation for New Sources—the emission limitation that is not less stringent than the emission limitation achieved in practice by the best controlled similar source and that reflects the maximum degree of reduction in emissions that the department, taking into consideration the cost of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.

Process or Production Unit—any collection of structures and/or equipment that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.

Reconstruct a Major Source—the replacement of components at an existing process or production unit that in and of itself emits, or has that potential to emit, 10 tons per year of any HAP or 25 tons per year of any combination of HAPs, whenever:

- a. the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and
- b. it is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new

sources established under this Subsection.

Research and Development Activities—activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a de minimis manner.

Similar Source—a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology.

C. Exemptions and Prohibitions. The requirements of this Section do not apply to:

1. electric utility steam generating units unless and until such time as these units are added to the source category list in accordance with section 112(c)(5) of the Clean Air Act;
2. stationary sources that are within a source category that has been deleted from the source category list in accordance with section 112(c)(9) of the Clean Air Act; and
3. research and development activities, as defined herein.

D. Source Obligation

1. No person may begin actual construction or reconstruction of a major source of hazardous air pollutants after June 29, 1998, unless the owner or operator obtains or revises a permit issued in accordance with Louisiana’s Part 70 Program (LAC 33:III.507) and follows the administrative procedures of that program and:

a. the department has made a final and effective case-by-case determination in accordance with the provisions of this Section such that emissions from the affected source will be controlled to a level no less stringent than the MACT emission limitation for new sources; or

b. the major source in question is specifically regulated by or exempted from regulation under a standard issued in accordance with section 112(d), 112(h), or 112(j) of the Clean Air Act and incorporated in 40 CFR part 63.

2. The owner or operator may request approval of case-by-case MACT determinations for alternative operating scenarios. Approval of such data satisfies the requirements of this Section for each such scenario.

3. The MACT emission limitation and requirements established shall be effective as required by Subsection I of this Section, supported by information listed in Subsection E of this Section and consistent with principles established in Subsection E of this Section. The owner or operator shall comply with requirements in Subsections G and J of this Section, and with all applicable requirements in 40 CFR part 63, subpart A.

E. Principles of Case-by-Case MACT Determinations. The following general principles shall govern preparation of each permit application requiring a case-by-case MACT determination concerning construction or reconstruction of a major source and all subsequent review of and actions taken concerning such an application by the department:

1. the MACT emission limitation or MACT requirements recommended by the applicant and approved by the department shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source as determined by the department;

2. based upon available information, the MACT emission limitation and control technology (including any requirements under Subsection E.3 of this Section) recommended by the applicant and approved by the department shall achieve the maximum degree of reduction in emissions of hazardous air pollutants that can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction, any non-air quality health and environmental impacts, and energy requirements associated with the emission reduction;

3. the applicant may recommend a specific design, equipment, work practice, operational standard, or a combination thereof. The department may approve such a standard based on these recommendations if the department specifically determines that it is not feasible to prescribe or enforce an emission limitation as defined herein; and

4. if the administrator has either proposed a relevant emission standard in accordance with section 112(d) or 112(h) of the Clean Air Act or adopted a presumptive MACT determination for the source category that includes the constructed or reconstructed major source, then the MACT requirements applied to the affected source shall have considered those MACT emission limitations and requirements of the proposed standard or presumptive MACT determination.

F. Application Requirements for Case-by-Case MACT Determination

1. The application shall specify a control technology selected by the owner or operator that, if properly operated and maintained, will meet the MACT emission limitation or standard as determined by Subsection E of this Section.

2. In the event that an affected source would require additional control technology or a change in control technology, the application for a MACT determination shall contain the following information:

- a. identifying information, including company name, physical address and mailing address, facility name and address, if different from the company, a map showing the location of the facility, owner's and operator's names and agent, and telephone number and name of plant manager or contact;
- b. a brief description of the major source to be constructed or reconstructed and identification of any listed source category or categories in which it is included;
- c. the expected commencement date for the affected source;
- d. the expected completion date for the affected source;
- e. the anticipated date of start-up for the affected source;
- f. the hazardous air pollutant emitted by the affected source and the estimated emission rate for each such hazardous air pollutant, to the extent this information is needed by the department to determine MACT;
- g. any federally enforceable emission limitations applicable to the affected source;
- h. the maximum and expected utilization of capacity of the affected source, to the extent this information is needed by the department to determine MACT;
- i. the controlled emissions for the affected source in tons per year at expected and maximum utilization of capacity, to the extent this information is needed by the department to determine MACT;
- j. a recommended emission limitation for the affected source consistent with the principles set forth in Subsection E of this Section;
- k. the selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, and estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the department);
- l. supporting documentation including identification of alternative control

technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology; and

m. any other relevant information required in accordance with 40 CFR part 63, subpart A.

3. In the event that an affected source will be in compliance, upon start-up, with the case-by-case MACT provisions in accordance with this Section without a change in control technology, the application for a MACT determination shall also contain documentation of the control technology in place.

G. Compliance with MACT Determination. An owner or operator of an affected source that has obtained a MACT determination shall be deemed to be in compliance with section 112(g)(2)(B) of the Clean Air Act only to the extent that the affected source is in compliance with all part 70 permit requirements. Any violation of such requirements by the owner or operator shall be deemed by the department and by EPA to be a violation of the prohibition on construction or reconstruction in section 112(g)(2)(B) for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action under the Clean Air Act.

H. Requirement for Affected Source Subject to a Subsequently Promulgated MACT Standard or MACT Requirement

1. If the administrator promulgates an emission standard under section 112(d) or 112(h) of the Clean Air Act or the department issues a determination under section 112(j) of the federal Clean Air Act that is applicable to a stationary source or group of sources that would be deemed to be an affected source under this Section before the date that the owner or operator has obtained a final and legally effective MACT determination in accordance with this Section, the owner or operator of the source(s) shall comply with the promulgated standard or determination rather than any MACT determination in accordance with this Section and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

2. If the administrator promulgates an emission standard under section 112(d) or 112(h) of the Clean Air Act or the department makes a determination under section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources that was deemed to be an affected source under this Section and has been subject to a prior case-by-case MACT determination in accordance with this Section and the owner or operator obtained a final and legally effective case-by-case MACT determination prior to the promulgation date of such emission standard, then the department shall issue an initial operating permit that incorporates the emission standard or determination or revise the operating permit according to the reopening

procedures in LAC 33:III.529, whichever is relevant, to incorporate the emission standard or determination.

a. The EPA may include in the emission standard established under section 112(d) or 112(h) of the Clean Air Act a specific compliance date for those sources that have obtained a final and legally effective MACT determination in accordance with this Section and that have submitted the information required by this Section to the EPA before the close of the public comment period for the standards established under section 112(d) of the Clean Air Act. Such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but not longer than eight years after such standard is promulgated. In that event, the department shall incorporate the applicable compliance date in the part 70 permit.

b. If no compliance date has been established in the promulgated 112(d) or section 112(h) standard or section 112(j) determination of the Clean Air Act, for those sources that have obtained a final and legally effective MACT determination in accordance with this Section, then the department shall establish a compliance date in the permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than eight years after such standard is promulgated or a section 112(j) determination is made.

3. Notwithstanding the requirements of Subsection H.1 and 2 of this Section, if the administrator promulgates an emission standard under section 112(d) or 112(h) of the Clean Air Act or the department issues a determination under section 112(j) of the Clean Air Act that is applicable to a stationary source or group of sources that was deemed to be an affected source under this Section and that is the subject of a prior case-by-case MACT determination in accordance with this Section, and the level of control required by the emission standard issued under section 112(d) or 112(h) or the determination issued under section 112(j) is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the department is not required to incorporate any less stringent terms of the promulgated standard in the part 70 permit applicable to such source(s) and may in its discretion consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such an operating permit.

I. Effective Date of MACT Determination. The effective date of a MACT determination shall be the date of issuance of a part 70 permit incorporating a MACT determination.

J. Compliance Date. On and after the date of start-up, an affected source that is subject to the requirements of this Section shall be in compliance with all applicable requirements specified in the MACT determination.

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